

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DONALD BOYER,

Plaintiff,

v.

BRIAN E. WILLIAMS, SR.,

Defendant.

Case No. 2:20-cv-02249-GMN-DJA

ORDER

I. DISCUSSION

Plaintiff, who is incarcerated in the custody of the Nevada Department of Corrections (“NDOC”), initiated this action with a motion for a preliminary injunction. (ECF No. 1-1). Plaintiff has now filed a “Request for Judicial Notice,” indicating that on the same day he submitted the motion for preliminary injunction, he also submitted a complaint and accompanying exhibits. (ECF No. 4 at 1-2.) Plaintiff intended all the documents to be filed in a single case, but the motion for preliminary injunction was filed in this case, and his complaint and accompanying exhibits were filed in Case Number 2:20-cv-02269-APG-VCF. (*Id.* at 2.) Plaintiff states that he has already paid the filing fee in this case and asks the Court to “combine” the cases. (*Id.*)

As an initial matter, the Court notes that the filing fee has actually been paid in Case Number 2:20-cv-02269-APG-VCF, not in this case. Furthermore, the Court cannot “combine” the two cases. Rather, Plaintiff must proceed in one case or the other. As Plaintiff has already paid the filing fee in Case Number 2:20-cv-02269-APG-VCF, the Court construes Plaintiff’s Request for Judicial Notice as motion to voluntarily dismiss this case and proceed with Plaintiff’s claims in Case Number 2:20-cv-02269-APG-VCF. The Court grants Plaintiff’s motion. This case is dismissed without prejudice, and no filing fee will be assessed in this case.

The Court will instruct the Clerk of the Court to send Plaintiff a copy of the motion for a preliminary injunction that Plaintiff filed in this case. Plaintiff may file the motion for a preliminary injunction in Case Number 2:20-cv-02269-APG-VCF if he wishes. The

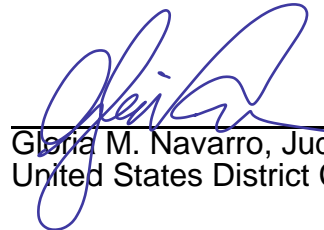
1 Court expresses no opinion regarding the merits of the motion for injunctive relief or his
2 likelihood of success.

3 **I. CONCLUSION**

4 For the foregoing reasons, it is ordered that the Court construes Plaintiff's Request
5 for Judicial Notice (ECF No. 4) as a motion for voluntary dismissal, and the Court grants
6 the motion for voluntary dismissal.

7 It is further ordered that the Clerk of the Court send Plaintiff a courtesy copy of the
8 motion for preliminary injunction (ECF No. 1-1).

9 DATED THIS 8 day of January 2021.

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12 Gloria M. Navarro, Judge
13 United States District Court
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